

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PAUL JOSEPH FAGO and SUSAN
JEAN FAGO,

Civil No. 14-6482 (NLH)

Appellants,

MEMORANDUM OPINION & ORDER

v.

TWO ANCO DRIVE ASSOCIATES,

Appellee.

APPEARANCES:

NEIL I. STERNSTEIN
FIVE ABERDEEN PLACE
WOODBURY, NJ 08096
On behalf of appellants

WARREN S. WOLF
GOLDBERG & WOLF, LLC
1949 BERLIN ROAD, STE 201
CHERRY HILL, NJ 08003
On behalf of appellee

HILLMAN, District Judge

This matter having come before the Court on the motion of appellee, Two Anco Drive Associates, to dismiss the appeal from the bankruptcy court filed by appellants, Paul and Susan Fago; and

On October 21, 2014, appellants having filed their notice of appeal of the bankruptcy court's September 15, 2014 Order, which granted Two Anco Drive Associates' administrative claim in the amount of \$24,413.00; and

On January 9, 2015, appellants having filed their brief in

support of their appeal; but

Appellee having moved to dismiss appellants' appeal because they failed to comply with the Bankruptcy Rules by failing to submit a timely statement of issues and brief, both of which should have been submitted within 14 and 30 days, respectively, of their notice of appeal;¹ and

Appellee arguing that appellants' appeal should be dismissed because it has been prejudiced by the delay due to appellants' "sharp tactics"; but

Appellants' counsel having filed a certification in response to appellee's motion, wherein counsel explains in great detail the serious medical conditions he has been experiencing since the filing of the appeal, including complications from a stroke he suffered in July 2014 and a kidney transplant he underwent on October 9, 2014; and

Counsel for appellants effectively asking the Court for an extension of time, *nunc pro tunc*, to file appellants' statement and brief, see Fed. R. Bankr. P. 8018(a) ("Time to Serve and File a Brief. The following rules apply unless the district court or BAP by order in a particular case excuses the filing of briefs or specifies different time limits."); and

¹ Effective December 1, 2014, the Bankruptcy Rules of Procedure were amended. The amendments do not substantively change the basis of appellee's motion.

The Court finding that good cause has been shown for the delay in the filing of appellants' statement and brief;

Accordingly,

IT IS on this 8TH day of June, 2015

ORDERED that appellee's motion to dismiss appellants' appeal [5] be, and same hereby is, DENIED; and it is further

ORDERED that the Court will consider the statement and brief filed by appellants on January 9, 2015; and it is further

ORDERED that with regard to the filing of appellee's responsive brief and appellants' reply, the parties shall follow Fed. R. Bankr. P. 8018(a): appellee's brief shall be filed within 30 days of the date of this Order, "or within an extended time authorized by the district court," and appellants' reply shall be filed within 14 days after service of appellee's brief, "or within an extended time authorized by the district court."

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.